

**United States Department of Labor
Employees' Compensation Appeals Board**

M.W., Appellant

and

**U.S. POSTAL SERVICE, HOCKESSIN POST
OFFICE, Hockessin, DE, Employer**

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**Docket No. 22-0260
Issued: May 5, 2022**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 7, 2021 appellant filed a timely appeal from a November 18, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish that a traumatic injury occurred in the performance of duty on June 4, 2021, as alleged.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On October 7, 2021 appellant, then a 42-year-old rural delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on June 4, 2021 she twisted her left ankle when carrying a heavy parcel while in the performance of duty. She did not stop work. The employing establishment advised that appellant had finished work at 3:30 p.m. without reporting an injury. It indicated that she had returned at 8:00 p.m. and related that she “got hurt and rolled an ankle, but was wearing flip flops.”

In a development letter dated October 15, 2021, OWCP advised appellant of the deficiencies in her claim and requested additional factual and medical evidence. It provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Appellant did not respond within the time allotted.

By decision dated November 18, 2021, OWCP denied appellant’s traumatic injury claim. It found that she had not factually established the occurrence of the alleged June 4, 2021 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁴ that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁷ Fact of injury consists of two components that must be considered in conjunction with one another.

³ *Supra* note 1.

⁴ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

The first component is whether the employee experienced the employment incident that allegedly occurred.⁸ The second component is whether the employment incident caused a personal injury.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that a traumatic injury occurred in the performance of duty on June 4, 2021, as alleged.

On her Form CA-1 appellant alleged that on June 4, 2021 she twisted her ankle when carrying a heavy parcel while in the performance of duty. She did not, however, submit a detailed account of the circumstances surrounding the alleged employment incident or provide other corroborating factual evidence.

In a development letter dated October 15, 2021, OWCP informed appellant that the factual evidence of record was insufficient to establish that the June 4, 2021 employment incident occurred as alleged. It provided a questionnaire for her completion and requested that she provide a detailed factual description of the alleged employment incident. Appellant, however, did not respond to OWCP's development letter. She has not provided a description of the alleged June 4, 2021 incident sufficient to determine the circumstances surrounding her injury.¹⁰ As appellant has not submitted a detailed factual statement describing the June 4, 2021 employment incident alleged to have caused the claimed condition, the Board finds that she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that a traumatic injury occurred in the performance of duty on June 4, 2021, as alleged.

⁸ S.S., Docket No. 19-0688 (issued January 24, 2020); E.M., Docket No. 18-1599 (issued March 7, 2019); Bonnie A. Contreras, 57 ECAB 364 (2006).

⁹ *Id.*

¹⁰ L.E., Docket No. 21-0847 (issued February 16, 2022); S.C., Docket No. 20-0733 (issued August 3, 2021).

ORDER

IT IS HEREBY ORDERED THAT the November 18, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 5, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board